

Message Text

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TO AMEMBASSY PANAMA IMMEDIATE

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SUBJECT: PANAMA CANAL TREATIES

FOR AMBASSADOR JORDEN

FOLLOWING IS TEXT OF DRAFT INSTRUMENT OF RATIFICATION OF
PANAMA CANAL TREATY:

BEGIN TEXT: JIMMY CARTER, PRESIDENT OF THE UNITED STATES
OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

CONSIDERING THAT:

THE PANAMA CANAL TREATY WAS SIGNED AT WASHINGTON ON
SEPTEMBER 7, 1977; AND

THE SENATE OF THE UNITED STATES OF AMERICA BY ITS
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RESOLUTION APRIL 18, 1978, TWO-THIRDS OF THE SENATORS
PRESENT CONCURRING THEREIN, GAVE ITS ADVICE AND CONSENT
TO RATIFICATION OF THE TREATY
SUBJECT TO THE FOLLOWING:

(A) RESERVATIONS:

(1) PURSUANT TO ITS ADHERENCE TO THE PRINCIPLE OF NON-INTERVENTION, ANY ACTION TAKEN BY THE UNITED STATES OF AMERICA IN THE EXERCISE OF ITS RIGHTS TO ASSURE THAT THE PANAMA CANAL SHALL REMAIN OPEN, NEUTRAL, SECURE, AND ACCESSIBLE, PURSUANT TO THE PROVISIONS OF THE PANAMA CANAL TREATY, THE TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL, AND THE RESOLUTIONS OF RATIFICATION THERETO, SHALL BE ONLY FOR THE PURPOSE OF ASSURING THAT THE CANAL SHALL REMAIN OPEN, NEUTRAL, SECURE, AND ACCESSIBLE, AND SHALL NOT HAVE AS ITS PURPOSE OR BE INTERPRETED AS A RIGHT OF INTERVENTION IN THE INTERNAL AFFAIRS OF THE REPUBLIC OF PANAMA OR INTERFERENCE WITH ITS POLITICAL INDEPENDENCE OR SOVEREIGN INTEGRITY.

(2) THE INSTRUMENTS OF RATIFICATION OF THE PANAMA CANAL TREATY TO BE EXCHANGED BY THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMA SHALL EACH INCLUDE PROVISIONS WHEREBY EACH PARTY AGREES TO WAIVE ITS RIGHTS AND RELEASE THE OTHER PARTY FROM ITS OBLIGATIONS UNDER PARAGRAPH 2 OF ARTICLE XII OF THE TREATY.

(3) NOTWITHSTANDING ANY PROVISION OF THE TREATY, NO FUNDS MAY BE DRAWN FROM THE TREASURY OF THE UNITED STATES OF AMERICA FOR PAYMENTS UNDER PARAGRAPH 4 OF ARTICLE XIII WITHOUT STATUTORY AUTHORIZATION.
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(4) ANY ACCUMULATED UNPAID BALANCE UNDER PARAGRAPH 4(C) OF ARTICLE XIII OF THE TREATY AT THE TERMINATION OF THE TREATY SHALL BE PAYABLE ONLY TO THE EXTENT OF ANY OPERATING SURPLUS IN THE LAST YEAR OF THE DURATION OF THE TREATY, AND NOTHING IN SUCH PARAGRAPH MAY BE CONSTRUED AS OBLIGATING THE UNITED STATES OF AMERICA TO PAY, AFTER THE DATE OF THE TERMINATION OF THE TREATY, ANY SUCH UNPAID BALANCE WHICH SHALL HAVE ACCRUED BEFORE SUCH DATE.

(5) EXCHANGE OF THE INSTRUMENTS OF RATIFICATION OF THE TREATY AND OF THE TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL SHALL NOT BE EFFECTIVE EARLIER THAN MARCH 31, 1979, AND SUCH TREATIES SHALL NOT ENTER INTO FORCE PRIOR TO OCTOBER 1, 1979, UNLESS LEGISLATION NECESSARY TO IMPLEMENT THE PROVISIONS OF THE PANAMA CANAL TREATY SHALL HAVE BEEN ENACTED BY THE CONGRESS OF THE UNITED STATES OF AMERICA BEFORE MARCH 31, 1979.

(6) AFTER THE DATE OF ENTRY INTO FORCE OF THE TREATY, THE PANAMA CANAL COMMISSION SHALL, UNLESS OTHERWISE

PROVIDED BY LEGISLATION ENACTED BY THE CONGRESS OF THE UNITED STATES OF AMERICA, BE OBLIGATED TO REIMBURSE THE TREASURY OF THE UNITED STATES OF AMERICA, AS NEARLY AS POSSIBLE, FOR THE INTEREST COST OF THE FUNDS OR OTHER ASSETS DIRECTLY INVESTED IN THE COMMISSION BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND FOR THE INTEREST COST OF THE FUNDS OR OTHER ASSETS DIRECTLY INVESTED IN THE PREDECESSOR PANAMA CANAL COMPANY BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND NOT REIMBURSED BEFORE THE DATE OF ENTRY INTO FORCE OF THE TREATY. SUCH REIMBURSEMENT OF SUCH INTEREST COSTS SHALL BE MADE AT A RATE DETERMINED BY THE SECRETARY OF THE TREASURY OF THE UNITED STATES OF AMERICA AND AT ANNUAL INTERVALS TO THE EXTENT LIMITED OFFICIAL USE

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EARNED, AND IF NOT EARNED, SHALL BE MADE FROM SUBSEQUENT EARNINGS. FOR PURPOSES OF THIS RESERVATION, THE PHRASE 'FUNDS OR OTHER ASSETS DIRECTLY INVESTED' SHALL HAVE THE SAME MEANING AS THE PHRASE 'NET DIRECT INVESTMENT' HAS UNDER SECTION 62 OF TITLE 2 OF THE CANAL ZONE CODE.

(B) UNDERSTANDINGS:

(1) BEFORE THE FIRST DATE OF THE THREE-YEAR PERIOD BEGINNING ON THE DATE OF ENTRY INTO FORCE OF THE TREATY AND BEFORE EACH THREE-YEAR PERIOD FOLLOWING THEREAFTER, THE TWO PARTIES SHALL AGREE UPON THE SPECIFIC LEVELS AND QUALITY OF SERVICES, AS ARE REFERRED TO IN PARAGRAPH 5 OF ARTICLE II OF THE TREATY, TO BE PROVIDED DURING THE FOLLOWING THREE-YEAR PERIOD AND, EXCEPT FOR THE FIRST THREE-YEAR PERIOD, ON THE REIMBURSEMENT TO BE MADE FOR THE COSTS OF SUCH SERVICES, SUCH SERVICES TO BE LIMITED TO SUCH AS ARE ESSENTIAL TO THE EFFECTIVE FUNCTIONING OF THE CANAL OPERATING AREAS AND THE HOUSING AREAS REFERRED TO IN PARAGRAPH 5 OF ARTICLE III. IF PAYMENTS MADE UNDER PARAGRAPH 5 OF ARTICLE II FOR THE PRECEDING THREE-YEAR PERIOD, INCLUDING THE INITIAL THREE-YEAR PERIOD, EXCEED OR ARE LESS THAN THE ACTUAL COSTS TO THE REPUBLIC OF PANAMA FOR SUPPLYING, DURING SUCH PERIOD, THE SPECIFIC LEVELS AND QUALITY OF SERVICES AGREED UPON, THEN THE PANAMA CANAL COMMISSION SHALL DEDUCT FROM OR ADD TO THE PAYMENT REQUIRED TO BE MADE TO THE REPUBLIC OF PANAMA FOR EACH OF THE FOLLOWING THREE YEARS ONE-THIRD OF SUCH EXCESS OR DEFICIT, AS THE CASE MAY BE. THERE SHALL BE AN INDEPENDENT AND BINDING AUDIT, CONDUCTED BY AN AUDITOR MUTUALLY SELECTED BY THE TWO PARTIES PURSUANT TO THE REEXAMINATION OF SUCH COSTS PROVIDED FOR IN THIS UNDERSTANDING.

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(2) NOTHING IN PARAGRAPH 3, 4, OR 5 OF ARTICLE IV OF THE TREATY MAY BE CONSTRUED TO LIMIT EITHER THE PROVISIONS

THE FIRST PARAGRAPH OF ARTICLE IV PROVIDING THAT EACH PARTY SHALL ACT, IN ACCORDANCE WITH ITS CONSTITUTIONAL PROCESSES, TO MEET DANGER THREATENING THE SECURITY OF THE PANAMA CANAL, OR THE PROVISIONS OF PARAGRAPH 2 OF ARTICLE IV PROVIDING THAT THE UNITED STATES OF AMERICA SHALL HAVE PRIMARY RESPONSIBILITY TO PROTECT AND DEFEND THE CANAL FOR THE DURATION OF THE TREATY.

(3) NOTHING IN PARAGRAPH 4(C) OF ARTICLE XIII OF THE TREATY SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF THE UNITED STATES OF AMERICA, THROUGH THE UNITED STATES GOVERNMENT AGENCY CALLED THE PANAMA CANAL COMMISSION, TO MAKE SUCH FINANCIAL DECISIONS AND INCUR SUCH EXPENSES AS ARE REASONABLE AND NECESSARY FOR THE MANAGEMENT, OPERATION, AND MAINTENANCE OF THE PANAMA CANAL. IN ADDITION, TOLL RATES ESTABLISHED PURSUANT TO PARAGRAPH 2(D) OF ARTICLE III NEED NOT BE SET AT LEVELS DESIGNED TO PRODUCE REVENUES TO COVER THE PAYMENT TO PANAMA DESCRIBED IN PARAGRAPH 4(C) OF ARTICLE XIII.

(4) ANY AGREEMENT CONCLUDED PURSUANT TO ARTICLE IX OF THE TREATY, WITH RESPECT TO THE TRANSFER OF PRISONERS SHALL BE CONCLUDED IN ACCORDANCE WITH THE CONSTITUTIONAL PROCESSES OF BOTH PARTIES.

(5) NOTHING IN THIS TREATY, IN THE ANNEX OR AGREED MINUTE RELATING TO THE TREATY, OR IN ANY OTHER AGREEMENT RELATING TO THE TREATY OBLIGATES THE UNITED STATES TO PROVIDE ANY ECONOMIC ASSISTANCE, MILITARY GRANT ASSISTANCE, SECURITY SUPPORTING ASSISTANCE, FOREIGN MILITARY SALES CREDITS OR INTERNATIONAL MILITARY EDUCATION AND TRAINING TO THE REPUBLIC OF PANAMA.

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(6) THE PRESIDENT SHALL INCLUDE ALL RESERVATIONS AND UNDERSTANDINGS INCORPORATED BY THE SENATE IN THIS RESOLUTION OF RATIFICATION IN THE INSTRUMENT OF RATIFICATION EXCHANGED WITH THE GOVERNMENT OF THE REPUBLIC OF PANAMA.

NOW, THEREFORE, I, JIMMY CARTER, PRESIDENT OF THE UNITED STATES OF AMERICA, RATIFY AND CONFIRM THE PANAMA CANAL

TREATY, SUBJECT TO THE AFOREMENTIONED RESERVATIONS AND UNDERSTANDINGS, AND HEREBY WAIVE THE RIGHTS OF THE UNITED STATES OF AMERICA AND RELEASE THE REPUBLIC OF PANAMA FROM ITS OBLIGATIONS UNDER PARAGRAPH 2 OF ARTICLE XII OF THE PANAMA CANAL TREATY.

IN TESTIMONY WHEREOF, I HAVE SIGNED THIS INSTRUMENT OF RATIFICATION AND CAUSED THE SEAL OF THE UNITED STATES OF AMERICA TO BE AFFIXED.

DONE AT (), OUR LORD ONE THOUSAND NINE HUNDRED SEVENTY-EIGHT AND OF THE INDEPENDENCE OF THE UNITED STATES OF AMERICA THE TWO HUNDRED SECOND.

BY THE PRESIDENT:

SECRETARY OF STATE." END TEXT. CHRISTOPHER

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